IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 919 of 2007

Date of Decision: 12.9.2007

Hominder Singh … Petitioner

Versus

State of HP & Ors. … Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?

For the Petitioner (s) : M/s Narinder Sharma & Varinder Sharma, Advocates.

For the Respondent(s) : Mr. M.S.Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General, for respondents 1 to 4.
Mr. M.A.Khan, Advocate Respondents No. 5 & 6.
Respondents 4 & 5 are personally present in Court.

Deepak Gupta, J. (Oral).

By means of this writ petition, the petitioner has prayed that the appointment of respondent No.6 as Lecturer High School cadre in Government Senior Secondary School, Solang, Tehsil Jubbal, District Shimla, on PTA basis be quashed and the petitioner be permitted to join as such in his place.

The brief facts of the case are that vide advertisement dated 3.5.2007 published in Dainik Tribune, the Parents Teachers

Associations (for short: PTA) Government Senior Secondary School, Jubbal, invited applications for filling up different posts of lecturers including the lecturer in History. These posts were to be filled up on PTA basis. The petitioner, respondent No.6 and other candidates applied for these posts. According to the petitioner, he was selected as lecturer in History on PTA basis and for this purpose, he places reliance on the letter Annexure P3 which reads as follows:-

"To

The Principal,
Govt.Sr. Sec. School,
Solang, Distt. Shimla, HP

Subject: Appointment of PTA Teacher at GSSS Solang Distt. Shimla HP.

Sir,

It is submitted as under:-

1. That selection committee of PTA GSSS Solang had interview on 05.05.07 for selection of PTA teacher that is lecturer in Hindi & History.
2. that selection committee comprised of the following:

   i) PTA Pradhan Sh Jagat Ram
   ii) PTA Secretary Sh Veenit Kumar
   iii) Subject Expert Smt. Usha Chauhan (Hindi), Balwant Jhouta (History).

3. that it was decided by the selection committee that a lecturer of Hindi & History to be selected for GSSS Solang.
4. That the following candidate has been selected in the interview conducted on 0.5.05.07 as per the PTA policy 2006.

   i) Smt. Santosh Negi, Lect. Hindi w/o Sh Devinder Singh r/o Bholar. District Shimla HP.

   ii) Sh Hominder Singh, Lect.History s/o ___ R/o Solang Distt. Shimla, HP

It is, therefore, requested that the above named candidate may please be allowed to work as Lect. Hindi &

History at GSSS Solang as they are selected by the PTA for the said post.

Thanking you,

Sd/-
PTA GSSS Jubbal
PTA Pradhan
Dated 08.05.07 Jagat Ram"

A perusal of this letter shows that according to the Pradhan of the PTA, the PTA had selected the petitioner Hominder Singh as lecturer in History. The case of the petitioner is that though pursuant to the letter dated 8.5.2007 (Annexure P3), he went to the office of Principal, Govt. Senior Secondary School, Solang to join his duty as Lecturer in History but the Principal did not allow him to join the post. He alleged that respondent No.6 had been appointed illegally as lecturer in History on 11.6.2007.

We had issued notice to the respondents and respondents 1 to 4 in their reply denied that the letter Annexure P3 was ever sent by respondent No.5 to the respondent No.4. Respondents No. 5 & 6 have filed a common reply. Reply of respondent No.5 in respect of Annexure P3 reads as follows:-

> "Para7. That the replying respondent No.5 had issued Annexure P3 annexed with the petition but it is pertinent to mention here that respondent No.4 had joined the duty as he was duly selected by the constituted Committee of PTA on the basis of merit."

In view of this dispute as to whether Annexure P3 had been sent to respondent No. 4 or not, we direct respondent No.4 to file a specific affidavit-reply in this behalf. Para 7 of the reply reads as follows:-

" 7. That in rely to this para it is submitted the PTA Pradhan has submitted appointment letter of the following candidates in the office of replying respondent on 8.5.2007.

I) Smt. Santosh Negi Lect. Hindi.

II) Shri Devinder Singh Lect. Hisitory

III) Sh Jai Pal Singh Lect. Pol. Science.

IV) Smt. Sangeta Lect. In Sociology.

V) Sh Yash Pal Lect.English

VI) Miss Sarita DPE.

So far as Annexure P-3 is concerned, it is submitted that the replying respondent has no knowledge of Annexure P-3 as the same was never received till the appointment of candidates reflected hereinabove and the interviews conducted by the PTA were not cancelled as per office record and on the basis of interview conducted by the concerned PTA, the candidates as mentioned above have been appointed by the PTA and the replying respondent on the basis of appointment order issued by the PTA concerned has allowed the selected candidates to join. However, a registered letter was received in the office of replying respondent on 21.6.2007 in which photo copy of annexure P3 w.r.t. allowing to work as lecturer Hindi & History as selected by PTA and an application was sent by the petitioner but that time respondent No.6 had already joined his duty at GSSS, Solang vide appointment letter issued to him by the PTA Pradhan. However, the detailed reply has to be given by the PTA concerned."

It is apparent that according to the Principal of the school, he never received the letter Annexure P3 and the letter dated 7=8.5.2007 which he received did not contain the name of the petitioner but only contained the name of respondent No.6 for appointment as lecturer in History."

We have seen the original record of selection also. In the said selection, the petitioner has obtained 35.05 marks whereas

the respondent No.6 has obtained 38.16 marks. We have also seen the original letter dated 8.5.2007 which was sent by respondent No.5 to the Principal of the school in which it is clearly mentioned that respondent No.6 has been selected as lecturer in History.

In view of the aforesaid facts, it is apparent that respondent No.5 was duly selected by the PTA. It is also clear that letter Annexure P3 though signed by the Pradhan - respondent No.5 was never sent to respondent No.4. We accordingly dismiss the writ petition.

We are constrained to observe that respondent No.5 who was the Pradhan of the PTA has acted in a highly arbitrary fashion. He has been totally negligent while performing his functions as PTA, Pradhan. It is clear from the record produced by the respondent No.4, correctness of which record is not disputed by respondent No.5 that it was respondent No.6 who was selected by the selection committee. In fact respondent No.5 has stated so in his reply, then what compelled the respondent No.5 in issuing the letter Annexure P3.

Today, respondent No.5 is present in Court and despite our repeated questioning he was unable to give any explanation for issuing Annexure P3 except to state that there was some confusion in the marks. The confusion, if any, has been created by respondent No.5 only. The letter Annexure-P3 was wrongly and illegally issued by him. This has led to the filing of this writ petition and unnecessary wastage of time of the Court and the parties. The respondent No.5 is, therefore, burdened with costs of

Rs. 5,000/- which costs shall be deposited by him with the H.P. State Legal Services Authority, Shimla within four weeks from today. The petitioner is not entitled to these costs since the petition has been dismissed. In case the costs are not deposited, the respondent No.1 shall recover the same as arrears of land revenue.

(Deepak Gupta), J.

September 12, 2007. (V.K.Ahuja),J.

s.